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FALL 2018

“SHE COMES ARMED WITH THE PROPER DOCUMENTS”: MYRA BRADWELL’S
FIGHT FOR WOMEN’S RIGHTS IN *BRADWELL V. ILLINOIS*

Introduction

Myra Bradwell found herself at the center of historical women's rights moments at multiple points in her life. In 1868, she broke many social and economic boundaries on women when she started and owned a newspaper titled the *Chicago Legal News* that reported on legal and court events. In 1870, she became the first woman in America to attempt to enter the profession of law by applying for her law license. When her license was denied by her home state of Illinois in 1873, she was one of the first to challenge the scope of the newly ratified Fourteenth Amendment to protect employment opportunities in the United States Supreme Court case *Bradwell v. Illinois*. Yet, historical analysis of the United States Supreme Court or even the Women's Rights Movement in post-Civil War America, Myra Bradwell and her case are mentioned as an afterthought, if at all. In fact, *The Slaughterhouse Cases*, issued a day before *Bradwell*, receive the most attention as the first case from the Supreme Court to limit the scope of the Fourteenth Amendment just to the protection of African American men. Though the Court was nearly divided over the decision in *The Slaughterhouse Cases*, a five to four vote, the judges were almost entirely in agreement with restricting the rights for Bradwell in an eight to one vote. How is it that the Court could be so divided in one case yet not divided in a case that asks an almost identical question of the Fourteenth Amendment? As Justice Joseph Bradley's infamous opinion from *Bradwell* demonstrates, any issue concerning women's rights was an easy case to dismiss. The life, career, and judicial journey of Myra Bradwell and *Bradwell v. Illinois* bring an important perspective to not only the history of the Supreme Court, but also to the women's rights movement.

While women in post-Civil War America, specifically women of a higher socioeconomic status like Bradwell, were limited in their economic, social, and political actions due to gender

expectations, Myra Bradwell defied these limitations. This paper seeks to prove that *Bradwell v. Illinois* was the manifestation of Myra Bradwell's utilization of gender expectations to achieve legal reform for women's rights. Even though *Bradwell v. Illinois* failed to expand the Fourteenth Amendment's federal protection to women, the case still demonstrates an important political strategy of the women's right movement on the judiciary system in the late nineteenth century. Myra Bradwell's careful actions, argumentation, and political strategies within her case represent a push for women's rights by utilizing gender expectations. The case of *Bradwell v. Illinois*, exemplifies not only the Court's early reluctance to adopt a broad view of the Fourteenth Amendment, but also the American legal system's unrelenting hold on traditional gender roles. Furthermore, the politically calculated efforts of Myra Bradwell throughout her own case exemplify the political strategies of the early women's rights movement.

Bradwell v. Illinois occurred in one of more turbulent moments in American history. The Fourteenth Amendment was one of the three pieces of legislation that composed what were known as the Civil War Amendments. The Thirteenth, Fourteenth, and Fifteenth amendments were all collectively passed to secure certain liberties for African Americans and reconstruct a divided America. Therefore, Bradwell's appeal to the Supreme Court on the Fourteenth Amendment proved to be a decisive moment in the Court's decision to limit or secure federal power. Even more so, the case's appeal to the Court came after the Fifteenth Amendment was ratified, which granted suffrage only to African American men. This exclusion of women's suffrage dealt a major blow to the women's rights movement. Bradwell's legal defense even mentions the Fifteenth Amendment in their argument to the Supreme Court. This Supreme Court case was not just marked by the question of federal power expansion, but also the question of women's suffrage.

In order to convey how the expectations of the female sex affected Myra Bradwell's judicial and political attacks, the paper is divided into two chapters. Chapter one covers the nineteenth century Victorian value system called the "Cult of True Womanhood" and how this system affected Myra Bradwell as well as the women's rights movement. How was Myra Bradwell affected by this "Cult"? By first exploring what virtues defined "a true woman" through the analysis of primary sources like articles from her own newspaper and those across the country, as well as correspondence with fellow activists in the women's rights movement, one can see how Myra Bradwell utilized these virtues to seek reform and political gain. This discussion of how Bradwell fit into the Cult of True Womanhood carries over into chapter two's analysis of the judicial journey that defined *Bradwell v. Illinois*. What does this case represent about the Supreme Court and the American Legal System at the time? Analyzing different court documents such as briefs, petitions, arguments, and rulings from both the Illinois State and United States Supreme Court can illuminate not only how Myra Bradwell waged political war on the judicial system, but also how these judges perceived her legal and social arguments.

The primary sources of this paper are supplemented with the existing scholarly work on the case. The historiography of *Bradwell v. Illinois* can be traced through many academic articles that focus on multiple aspects of the case. Some historians have noted the case's significance because of its association with *The Slaughterhouse Cases* and its historic time period setting of Post-Civil War America. Other scholars study the case and Myra Bradwell in the larger picture of the Women's Rights Movement, either using the case as an example of the traditional societal ideals influencing the Courts or how Bradwell herself exemplified a progressive activist for women's rights. The only biography on Myra Bradwell offers a wide perspective of her life with her noteworthy case and her other involvements in social reform. Equally important, historians

have also examined the rhetoric of the Courts and newspaper coverage of *Bradwell v. Illinois* to explore the implications of the “Cult of True Womanhood.” This thesis draws on multiple works that focus on different aspects of the case to provide the most accurate depiction of American society in the late nineteenth century.

The initial works referred to in this paper go back to 1975, beginning with Robert M. Spector’s article titled “Women against the Law: Myra Bradwell’s Struggle for Admission to the Illinois Bar.”¹ In his article, Spector details the circumstances that defined and surrounded the case of *Bradwell v. Illinois*. Relying heavily on the usage of written opinion and oral arguments that emerged from both the Illinois State Court and United States Supreme Court cases that Bradwell pursued, Spector demonstrates the legal and societal thought that barred her admission to the Illinois State Bar. Rather than just focusing on the case itself, Spector illuminates significant details of Bradwell’s life that exemplify her acceptance to take her struggle to a national level for the advancement of all women. After spending considerable time on the timeframe and legalities of Bradwell’s case, Spector turns to the larger picture of how this case demonstrates Myra Bradwell’s involvement in the Women’s Rights Movement. Spector claims through Bradwell’s actions in her activist life that she cared more about the advancement of equal rights for women than her own right to be a lawyer. For example, a year before the Supreme Court’s 1873 decision, she and other women successfully lobbied an Illinois law that prevented discrimination in occupation based on sex. Bradwell also invested much legal and political energy into her newspaper *Chicago Legal News*, a popular resource for lawyers, judges,

¹ Robert M. Spector, “Women against the Law: Myra Bradwell’s Struggle for Admission to the Illinois Bar,” *Journal of the Illinois State Historical Society* 68, no. 3 (1975), 228-242.

and the interested reader that made many arguments in favor of suffrage, education reform, and more progressive movements.

By 1987, Nancy T. Gilliam would take Spector's work and elaborate even further on the legal history of the case. Gilliam's article "A Professional Pioneer: Myra Bradwell's Fight to Practice Law," focuses on the legal arguments and actions that defined Bradwell's lawsuits at the state and federal courts.² By first providing brief background on Bradwell's academic capabilities and the previous standing of women in professional environments, Gilliam interprets the two courts' rulings and opinions that denied Bradwell the right to practice law. While Spector and Gilliam both provide an extensive legal history of the case and the United States Supreme Court, Gilliam provides much needed analysis into the connection between *Bradwell v. Illinois* and *The Slaughterhouse Cases*. Gilliam defines Bradwell as a woman who believed in the justice capabilities of the Courts, believing that her case was the way to hold the American Court system accountable for providing justice to its citizens.

While both Spector and Gilliam's articles review the legal history of the case, Joan Hoff Wilson's 1977 article "The Legal Status of Women in the Late Nineteenth and Early Twentieth Centuries" captures in a concise analysis the ways that American women in a post-Civil War society recognized the lack of legal mobility for reform and instead turned to political reform.³ Referring to the historical context of *Bradwell v. Illinois* and other cases like *Minor v. Happersett*, as well as legislation such as the Married Women's Property Act, Wilson demonstrates the subsequent systemic push of women reformers to successfully lobby the political sphere rather than appeal to the legal sphere. Wilson's analytical comparison between

² Nancy T. Gilliam, "A Professional Pioneer: Myra Bradwell's Fight to Practice Law," *Law and History Review* 5, No. 1 (1987), 105-133.

³ Joan H. Wilson, "The Legal Status of Women in the Late Nineteenth and Early Twentieth Centuries," *Human Rights* 6, no.2 (1977): 125-134.

the lack of legal reform and the subsequent political reform championed after deflating defeats like Bradwell's exemplify the important fact that there was also a subtle interaction between the political and legal activities of women reformers during the late nineteenth century.

Jane Friedman's biography on Myra Bradwell titled *America's First Woman Lawyer: The Biography of Myra Bradwell* combines much of the legal and social history mentioned above with specific reference to life of Myra Bradwell herself.⁴ Though Friedman provides thoughtful insight into Bradwell's background, defining the book as a biography, she does not let the writing become heavy with personal details. Rather, Friedman exemplifies personal characteristics of Bradwell through the examination of her political, economic, legal, and private endeavors. Friedman's work is especially impressive considering the lack of research into this historical figure's life before her inquiry, as shown with the introductory chapter titled "Myra, Who?" An important note about Friedman's work is her speculation of what Bradwell's motives were to pursue the Supreme Court case by looking through Bradwell's life. Friedman relates Bradwell's life to her stance on the "Cult of True Womanhood." By examining the rhetoric she employed for social and judicial reform, Friedman shows how Bradwell proudly labeled herself as a "true woman."

Friedman's chapter and numerous references to the value system of the "Cult of True Womanhood" are only possible due to the work of Barbara Welter on the subject in 1966. Welter's article "The Cult of True Womanhood: 1820-1860" examines the composing characteristics that American society held to define an ideal woman in the period of 1820 to

⁴ Jane A. Friedman, *America's First Woman Lawyer: The Biography of Myra Bradwell*, Buffalo: Prometheus Books, 1993.

1860.⁵ These characteristics, including piety, purity, submissiveness, and domesticity, all encompassed the virtues that husbands, peers, society, and even women themselves would be judged on. Using an abundance of prescriptive literature from the time period containing societal advice and structure of feminine qualities, Welter demonstrates how the qualities of true womanhood were defined through women's adherence to as well as divergence from "the cult." An important feature to note in Welter's analysis is the strictness of societal standards that held women to their own gendered sphere.

Friedman's examination of Bradwell's motives and Welter's analysis of the "Cult of True Womanhood" serve as a basis for more sociological-historical examination of Myra Bradwell and *Bradwell v. Illinois*. Articles from scholars like Richard L. Aynes and Gwen Hoerr Jordan represent the combination of Welter's analysis on the Cult of True Womanhood and Friedman's analysis of Bradwell's possible intentions within her Supreme Court case. In his article "Kate Chase, the 'Sphere of Women's Work,' and Her Influence upon Her Father's Dissent in *Bradwell v. Illinois*," Richard Aynes analyzes the relationship between Chief Justice Salmon P. Chase and his daughter Kate and how their relationship affected his lone dissenting vote in the landmark case, *Bradwell v. Illinois*.⁶ Not only does his article examine Kate Chase's influence over her father, but Aynes also analyzes the political and social context of the time to create a personal insight into the Supreme Court's decision. Through an examination of Justice Chase and Kate Chase's background, their correspondence, and the social ideas of women's role in nineteenth-century America, Aynes provides a deep and thorough display of the power between a father and daughter's relationship.

⁵ Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly* 18, no. 2 part 1 (1966): 151-174.

⁶ Richard L. Aynes, "Kate Chase, the 'Sphere of Women's Work,' and Her Influence upon Her Father's Dissent in *Bradwell v. Illinois*," *Ohio History* 117, no. 31 (2010) 31-49.

While Justice Chase displayed progressive ideals of women in his work, within his correspondence to Kate he also exhibited more conservative notions. Aynes points to the idea of “True Womanhood” and how certain standards were held to all women, even from progressive individuals. Mirroring part of Friedman’s work, Aynes shows that even Myra Bradwell herself believed that she was fulfilling the role of a nineteenth-century woman in the midst of her lawsuit. In his conclusion, Aynes states that while there are plenty of theories about why Chief Justice Chase was the lone dissenter in the case, “human nature suggests” that he was deeply moved with his love and respect for Kate. Aynes’s article demonstrates a sociological-historical analysis that goes beyond the case by examining a key Justice so that he may capture the societal thoughts and progressive intentions revolving around the Court.

Gwen Hoerr Jordan also takes this essential analytical approach in her article “‘Horror of a Woman’: Myra Bradwell, the 14th Amendment, and the Gendered Origins of Sociological Jurisprudence.”⁷ Jordan explains Bradwell’s intention and strategy behind her appeal to the United States Supreme Court in terms of her involvement with the women’s rights movement. Relying on a variety of newspaper sources that mark popular opinion and legal scholarship, Jordan argues the restrictive gender roles that Justice Joseph Bradley celebrated in his opinion were not the mainstream ideals of the time. Jordan also makes the innovative claim that Bradwell did not chose a side when the women’s rights movement split over the Fifteenth Amendment and the issue of suffrage, but Bradwell rather created a third faction of activists who focused on obtaining legal identity through affirmative action. An important point in Jordan’s article is that she demonstrates that Bradwell was not a social radical, but was a legal radical. Bradwell

⁷ Gwen Hoerr Jordan, “‘Horror of a Woman’: Myra Bradwell, the 14th Amendment, and the Gendered Origins of Sociological Jurisprudence,” *Arkno Law Review* 42, no. 4 (2009), 1201-1240.

believed in societal ideals of a proper woman but also believed that women deserved the full rights of citizenship that men enjoyed. According to Bradwell, also with many other leaders of the women's rights movement like Elizabeth Cady Stanton, marriage and motherhood were not mutually exclusive with legal and political submission.

Thus, the scholarship of this thesis will be based upon the work of many scholars who have provided analysis of *Bradwell v. Illinois* through a political, legal, social, or sociological lens. It is necessary, in order to fully answer the question of how Myra Bradwell utilized or resisted the Cult of True Womanhood," to rely on the previous works and diverse research of other historians. To understand why the Justices, all but one, were able to deny Bradwell her to right to practice law requires an understanding of American societal attitude towards the place of women in post-Civil War America.

Chapter 1: “The Cult of True Womanhood”

On July 30th, 1873, in Chicago, Illinois, Myra Bradwell received a letter. One can imagine Bradwell sitting at her office desk with the summer heat looming over, as she mentally prepared herself to open and read the contents of the letter before her. The return address listed only one name: Anthony. After helplessly sitting through the oral arguments presented by her lawyer to the United States Supreme Court, even though she knew the legal details of the case better than anyone, she was exhausted. Though Bradwell felt that she had helped mold the best possible argument with her lawyer, she felt unsatisfied. Plus, who knows when the Court would make their final decision? It was a long waiting game that she knew would be filled with many more letters from Susan B. Anthony. Taking a deep breath, Bradwell grudgingly opened the letter. What she read did not surprise her.

“Carpenter’s argument was such a school boy pettifogging speech - wholly without a basic principle - but still the courts are so entirely controlled by prejudice and precedent we have nothing to hope from them but endorsement of dead men’s actions.”⁸ Though Anthony’s words only directly mentioned and criticized Carpenter, Bradwell knew that most of Anthony’s frustration was directed at her. After all, Bradwell was the one who appointed Carpenter to the case and helped him mold his argument to the Court with him. She knew that Anthony was furious with her part of a case that did not advocate for the women’s vote to the United States Supreme Court when she had the chance to do so. Bradwell calmly folded the letter back in its

⁸ “Letter from Susan B. Anthony to Myra Bradwell (July 30, 1873) (recently discovered letter on file with author),” from Jane A. Friedman’s *America’s First Woman Lawyer: The Biography of Myra Bradwell*. Buffalo: Prometheus Books, 1993, 26.

envelope before placing it on her desk and looking out the window. It was no use to try to explain herself to Anthony. Bradwell probably thought to herself: when will Susan realize that this a man's world? If we want to make a change in this world, we have to be accepted into it first. They'll never listen if we do not play the part. Myra Bradwell's attitude was unthinkable to Susan B. Anthony: she was a "true woman," through and through.

Introduction

Myra Bradwell and Susan B. Anthony had vastly different thoughts on the role and actions of a woman during the women's rights movement. Anthony, a pioneer in the women's suffrage movement, even had these same disagreements with her fellow pioneer, Elizabeth Cady Stanton. While Anthony and Bradwell both believed in certain rights for women, such as the right to enter public office, to vote in elections, and to serve in certain public positions, their positions on how to achieve these rights were vastly different. Anthony saw no need to conform to societal rules that constricted the activities of a middle class or higher status woman to the home as a wife and mother. Bradwell, however, saw these societal rules as a means to comfort and ease men into the idea of introducing women outside of the home and into the public specter. Bradwell sought to fit into the "Cult of True Womanhood" while Anthony pivoted her efforts away from it.

This chapter will cover the nineteenth century Victorian value system called the "Cult of True Womanhood" and how this system affected Myra Bradwell as well as the women's rights movement. From the last paragraph of Justice Joseph Bradley's concurrent opinion in *Bradwell v. Illinois*, there are blatant ideals in his writings that matched the separate sphere doctrine between men and women. Therefore, an examination of how these ideals of a "true woman" and "her own sphere" affected American society is necessary before there can be an examination of

how it affected the United States Supreme Court. After a background analysis of the Cult of True Womanhood through Barbara Welter's article, then applying that gender value system to the life of Myra Bradwell from the biographical work done by Jane Friedman, one can ultimately see through primary sources of newspaper articles and letters of the time how women like Myra Bradwell conformed to or utilized the Cult of True Womanhood within the women's rights movement.

Background

In "The Cult of True Womanhood: 1820-1860" Barbara Welter provides ample evidence and explanation of the defining characteristics of the nineteenth century Victorian value system for women. Welter limits her research to an analysis of "women's magazines, gift annuals and religious literature."⁹ Therefore, this source base has some obvious limitations on what class of women were located and defined within Welter's study. The lecturing and instruction of values to become a "true woman" were mainly intended for middle class or elite women who could afford certain luxuries in life. Nevertheless, some of the popular journals and magazines that Welter draws from include, *Ladies' Companion: A Monthly Magazine Embracing Every Department of Literature, Embellished With Original Engravings and Music* from New York, *Women, in Her Social and Domestic Character* from Boston, and *The Young Lady's Book*. Another limitation of the spectrum of these sources that Welter uses can be applied just to the women of northeastern America. For the purposes of this paper's research into the life of a Chicago woman, however, the scope fits well.

To begin her article, Welter describes the four virtues that defined the Cult of True Womanhood: piety, purity, submissiveness, and domesticity. To disrupt these virtues was to

⁹ Barbara Welter, "The Cult of True Womanhood: 1820-1860." *American Quarterly* 18, no. 2 part 1 (1966): 153.

become an “enemy of God, of civilization and of the Republic.”¹⁰ To be a true woman, was not to just to be a good mother, daughter, sister, or wife; it was to keep the foundation of the American Republic intact. This notion of maintaining womanly virtue to therefore maintain the American Republic is important for a later examination of Justice Bradley’s dissenting opinion. As Welter defines the attributes of each of the four virtues for an ideal woman, she explains how those attributes were valued because they each in their own way kept women limited to her own sphere, namely to the home. For example, Welter states that the one reason that religion, or piety, “was valued was that it did not take a woman away from her ‘proper sphere,’ her home.” There was a harmonious existence in the nineteenth century between a women’s duty to be religious and her duty to be domestic.¹¹ The same was true with the virtue of purity. If there was an absence of purity in a young woman, she was “unworthy of the celestial company of her sex.” Without a husband and therefore without children to care for, a woman would not have the foundation of domestic duties to hold her to the separate sphere of the home.¹² A lack of household responsibility would pose another threat to the societal foundation of America that was based on gender separation.

Welter considered submissiveness to be “the most feminine virtue expected of women” because true women were expected to be passive actors in the lives of their husband.¹³ Men were considered to be the active members of society, the doers and the movers, while women were supposed to support their husbands’ actions. This virtue of submissiveness ties back to piety because the Bible itself even recognized the superiority of men over women.¹⁴ Again, to be

¹⁰ Ibid., 152

¹¹ Ibid., 153.

¹² Ibid., 154.

¹³ Ibid., 158.

¹⁴ Ibid., 159.

submissive also limited a woman to the affairs of the household since she was to yield certain responsibilities to her husband. Welter draws from an advice column from *Lady's Token* that suggests for a wife to occupy herself “only with domestic affairs - wait till your husband confides to you those of a high importance- and do not give your advice until he asks for it.”¹⁵ The matters of “high importance” refer to matters outside of the home, like affairs concerning the community’s politics or legal proceedings. Therefore, women could only be invited to participate in society through the acceptance of a man.

The legal system of the United States during the late eighteenth and nineteenth century matched the social institution of the Cult of True Womanhood. For example, the common law institution known as coverture that blocked Myra Bradwell from the Illinois Bar followed the same virtues as the Cult of True Womanhood. Coverture, falling under common law tradition, was the legal status that defined married women. When a woman married, she no longer possessed what legal identity or rights that she did as a single woman. Since she was supposed to be completely submissive to her husband, he would represent her in any legal proceeding. A married women’s legal identity transitioned to what was called a *feme covert*, literally meaning that she was covered, or perhaps a better term would be overshadowed, by her husband’s legal identity. From the enforcement of common law doctrine like coverture, one can see how the legal institution of America was deeply influenced by the societal expectations for women to serve men.

Though women were indeed considered to be passive actors in society, they were still called upon as role models of strength in certain moral qualities. Welter strikes upon an interesting contradiction within her analysis of prescription literature from 1820 to 1860. While

¹⁵ Ibid., 161.

men were indeed the active members of society who provided for the family, women were thought to be the vessel of moral strength. Welter even quotes a medical doctor lecturing to students in 1847 on how “the confiding nature” of women led them to be “more readily than men to accept the proffered grace of the Gospel.”¹⁶ Thus, though all of the virtues that defined a “true woman” depicted a passive and weak character limited to the household, she was considered the strongest in terms of moral virtue. But, if a “true woman” was considered to be morally superior to her male counterpart, would it not stand to reason then that she should be a part of the regulation and legislation of society? Or, as Welter speculates, “if woman was so very little less than the angels, she should surely take a more active part in running the world, especially since men were making such a hash of things.”¹⁷ Surely, this ability to always know the morally correct decision would be useful in the terms of law making. However, as Welter captures, this was not the case. Welter explains how women were thought to have a morally superior mind due to their protection that was provided from a “quiet life [from home] while man is exposed to conflict and evil [outside of the home].”¹⁸ If women were taken outside of the home, outside of their separate sphere, they would be exposed to the impurities of society and thus no longer have moral reasoning. In other words, women’s moral superiority could only be maintained within the household where she can offer counsel to her husband.

Therefore, as Welter demonstrates, when the Women’s Rights Movement began, magazines and literature that sought to regulate the action of women were quick to voice their sharp criticism. In the opposition’s prescriptive literature, for a woman to ask to broaden the

¹⁶ Ibid., 153.

¹⁷ Ibid., 174.

¹⁸ Ibid., 172.

scope of “her gifts...[was to] tamper with society [and] undermine civilization.”¹⁹ Women who were part of the Women’s Right Movement were accused of not being wholly formed, even called “mental hermaphrodites.” The opposition also interviewed women to see what they thought of introducing women into the public sphere. The answer was almost unanimous: “Let the men take care of politics, *we will take of the children!*” Therefore, as Welter demonstrates with her analysis of prescriptive literature from the mid 1800s, no one could be a “true woman” and still hope to enter the profession of men. Myra Bradwell’s life, however, demonstrates how a woman could cross that divide.

How Myra Bradwell Fit Into The “Cult”

In her own life, Myra Bradwell believed that she could still proudly call herself a “true woman” and perform the job that was normally left to the duty a man. Jane M. Friedman captures Bradwell’s belief system concerning the role of women in the second chapter of her biography on Bradwell. In “‘The Cult of True Womanhood’ Bradwell’s Formative Years,” Friedman provides the details of Bradwell’s life as well as the society she grew up in that led to her formation as an activist. Born in 1831, Bradwell would have grown up right within the time period of analysis for Welter’s work on the Cult of True Womanhood. Even more so, Friedman notes how Bradwell came from a family who were active members of the antislavery movement, which no doubt left “a deep impression on her...[and] provided the psychological origin of her subsequent devotion to the freeing of women from many conditions of their own enslavement.”²⁰

Friedman draws on Welter’s previous work on the Cult of True Womanhood, specifically Welter’s explanation of the “separate spheres” doctrine that Bradwell no doubt was taught to

¹⁹ Ibid., 172-173.

²⁰ Jane A. Friedman, *America’s First Woman Lawyer: The Biography of Myra Bradwell*. Buffalo: Prometheus Books, 1993, 35.

obey in her education at finishing school. Though one would logically assume that, since Bradwell wished to become a lawyer, she would not have molded herself on the virtues of the Cult of True Womanhood, Friedman argues the opposite. Through Friedman's examination of Bradwell's writings and activities, she argues, "Myra Bradwell was very much a product of the era in which she was raised and educated."²¹ Not only was Bradwell a product of her era and the instruction of the Cult of True Womanhood, Friedman demonstrates how Bradwell viewed the intersections between womanly virtues and the sphere of law.

One of the intersections that Bradwell saw between the world of law and womanly virtues was piety. A "true woman" was to be a religious role model. When looking through the various articles from her newspaper the *Chicago Legal News* it is easy for one to see how Bradwell brought the virtue of piety into her work. To exemplify this point, Friedman refers to an article that Bradwell wrote in which she added the word purgatory to a judge's quote. Through this journalistic edit, Friedman states that Bradwell "made it clear that religion was a part not only of the medical realm but of the legal one as well."²² Another example of Bradwell's intersecting ideals of piety and the law can be drawn from the *Chicago Legal News*. In a short section titled "Women Lawyers" from October of 1870, the paper discusses the debate of the eastern part of the United States following the lead of western states that were already allowing women to sit on juries. Quoting a statement from *The American Law Review*, the section called for the advancement of women's rights since "the hated black" was already given rights. Specifically, the author compared the enslavement of African Americans to the state of Ancient Egypt, and argued that the same victory (or Exodus) for women should not be too far in the

²¹ Ibid., 37.

²² Ibid., 38.

future.²³ Though these were not direct words from Bradwell, she nevertheless as the editor chose to print the piece in her paper. This article proves how not only Bradwell but also other legal reformers recognized an intersection of maintaining piety while also overseeing justice through law.

Friedman also stresses how Myra Bradwell's desire to practice law was not her attempt to unravel the virtue of submissiveness. In fact, Friedman cites an interview Bradwell gave to a reporter of the *Chicago Tribune* concerning why she wished to pursue law: "I acquired the idea [of studying law] from helping my husband in his office...I was helping in whatever way I could." Bradwell further states her belief that man and wife should work in the same sphere because "if they worked side by side and thought side by side we would need no divorce courts."²⁴ Again, Myra Bradwell's own personal endeavors represent how she believed that women could maintain their own status as a true woman and promote the welfare of society. Bradwell was also proud of her own excellence in domesticity, discrediting the claims of some who called her a "fanatic destroyer of domesticity" by referring to the superiority of her "two daughters and home life."²⁵

Myra Bradwell's domestic capabilities and values were not limited to her household. Friedman notes how, during the Civil War, Bradwell put much of her time and energy to the Union home front effort. Bradwell was the president for the Chicago Soldier's Aid Society that held fairs to raise money and aid for soldiers and their families.²⁶ These charitable efforts that highlighted Bradwell's "true woman" qualities went beyond the war effort. In fact, Bradwell committed much of her energy in her professional life through the *Chicago Legal News* to pursue

²³ "Women Lawyers," *Chicago Legal News*, October 8, 1870.

²⁴ Friedman, *America's First Woman Lawyer*, 38-39.

²⁵ *Ibid.*, 40.

²⁶ *Ibid.*, 42.

court reform. In her chapter titled “The *Chicago Legal News*, The Vehicle for Reform,” Friedman demonstrates how with Bradwell’s “commercial success came power, the power to influence the course of the nineteenth-century legal and social history.”²⁷ Within her newspaper, Bradwell had made special agreements and arrangements to publish cases and opinions in a much faster manner than opposing papers, which also lessened the lag between legislative action and judicial endorsement. In short, Myra Bradwell’s newspaper kept law firms updated and courts accountable for judicial action. For Bradwell, this fit perfectly well into her duties as a woman. If women did indeed have a better moral compass, then she would bring that moral compass to better the courts. When evaluating her particular interests in creating reform in the courts of Illinois, the flaws she was trying to eradicate were the exact opposite of the virtues that defined the Cult of True Womanhood. Bradwell despised the drunkenness and bribery that often plagued lawyers and judges. She also stated that a lawyer who accepted a bribe for a case should justly be met with the penalty of death.²⁸ A “true woman” would never let a place of justice succumb to low moral standards. Bradwell’s reform efforts could also be defined as housekeeping applied to the home.

When combining an analysis of the time in which she was raised, her personal life, and her career in the professional and activist sphere, it is easy to create a depiction of Myra Bradwell as a woman whose personal beliefs on the duty of a woman affected her reform efforts within the courts. But is this the reason Myra Bradwell wished to become a lawyer? Did she take her case to the highest court in the country because she believed it could open the doors for other women to practice law and create a more just legal environment? As Friedman eloquently notes in her work, “How could Myra Bradwell possibly have so thoroughly embraced the ethos of ‘true

²⁷ Ibid., 77.

²⁸ Ibid., 97.

womanhood,' and yet simultaneously have accomplished more than any other nineteenth-century woman to advance both the concept and the reality of gender equality? It is against this seeming paradox that all her achievements must be measured."²⁹ But perhaps this question can be answered through the life of another woman whose life had a strangely similar connection to Myra Bradwell's.

How the Cult of True Womanhood Affected The Perception of Myra Bradwell

Richard Aynes's article "Kate Chase, the 'Sphere of Women's Work,' and Her Influence upon Her Father's Dissent in *Bradwell v. Illinois*," covers the paradox between women's rights and the values of a "true woman." In his article, Aynes states that he believes the key to understanding Justice Salmon Chase's lone dissent in *Bradwell v. Illinois* lays in his relationship his favorite daughter, Kate. Justice Chase's personal life was marked with tragedy; suffering the loss of three wives and five children, Chase formed a unique and close bond with his eldest surviving daughter, Kate.³⁰ Justice Chase relied on his daughter for comfort and guidance in his personal and professional life. Through written correspondence between the father and daughter, Aynes demonstrates how Justice Chase treated Kate almost as his equal. In their letters, Justice Chase's writing "contained paternal and paternalistic admonitions on the role of a young woman in society, [but] he also shared with her news of battles, political speculation, and his hopes for the future."³¹ The relationship between the Justice and his daughter was not limited to the realm of domesticity, with clear evidence of Justice Chase sharing case problems with his daughter during the latter part of his career.

²⁹ Ibid., 43.

³⁰ Richard L. Aynes, "Kate Chase, the "Sphere of Women's Work," and Her Influence upon Her Father's Dissent in *Bradwell v. Illinois*," *Ohio History* 117, no. 31 (2010), 39.

³¹ Ibid., 40.

This notion that Chase considered his daughter his equal and yet still lectured her on the ideal role of young women points to an intriguing theme in Aynes's work. Throughout his political and judicial career, Justice Chase was known to have supported African American and Women's Rights. Even in the memorial piece for the Justice that Bradwell published in the *Chicago Legal News*, she celebrated Justice Chase's commitment to liberty for all, regardless of race or sex. From exemplifying his dedication to the cause against slavery and to his advocacy for universal suffrage, the memorial piece shows how Bradwell thought of Justice Chase as a key player in historic reforms for minorities in America.³² Aynes also notes Chase's effort to expand rights for African Americans and women from early in his career. While governor of Ohio, Chase supported legislation that would allow married women to control their own property. The Treasury Department, under his tenure as Secretary, was the first government office to employ a large number of women.³³ Yet, while Justice Chase was in favor of expanding the "sphere of women's work," he himself did not conduct business with another woman who was beyond the position of a clerk. He was in favor of suffrage but was quoted in a statement that he thought Susan B. Anthony wanted "change a little too fast."³⁴ To Justice Chase, his daughter and Myra Bradwell were the moderate women who championed change at what he considered a reasonable pace. Kate was known for her beauty and charm in the circles of her father's professional life in Washington D.C. Aynes cites that Kate's "beauty, poise, and intelligence 'made her a most useful if not indispensable adjunct to Chase's career plans.'"³⁵ Just as Myra Bradwell sought for advancement of women's rights while maintaining her title as a true woman, Kate Chase inspired

³² "The Late Chief Justice Chase," *Chicago Legal News*, May 10, 1873.

³³ Aynes, "Kate Chase," 37.

³⁴ *Ibid.*, 39.

³⁵ *Ibid.*, 42.

her father through her pose as a charming yet powerful woman. Justice Chase might have noticed the similarities between the two women.

This ties back to the letter that Susan B. Anthony wrote Myra Bradwell and gives essential background of the discrepancy between the two women. While it is impossible to enter the mind of Myra Bradwell and ask if she truly thought like Justice Chase and believed that Anthony wanted “change a little too fast,” one can arrive at a reasonable conclusion about the differences between the two women. As seen with the steps taken in her case and activist career, Bradwell preferred to pursue slower and less risky means to achieving women’s rights. Susan B. Anthony did not take this same, societal conforming stance. The differences between these two women dates back to divisions that appeared in the women’s rights movement after the Civil War. When the Fourteenth Amendment was ratified, Anthony and Stanton along with other women’s rights activists were alarmed at the fact that this amendment was the first passage in the United States Constitution to contain the word “male.” By referring to just men, with specific intention for just former slaves in a post-Civil War America, all women were excluded from this recognition of rights. With such an important amendment that established federal equal protection of due process and privileges and immunities from the possible discrimination of state governments, these women saw their advancement for equal rights quickly failing with just one usage of the word “male.” Therefore, when hearings began for the Fifteenth Amendment’s ratification of providing the right to vote just to African American men, women like Susan B. Anthony saw an important moment to act. If women were intentionally excluded from the Fourteenth Amendment, there would be some redemption for women’s rights if they could gain the right to vote in the Fifteenth Amendment.

Susan B. Anthony, along with Elizabeth Cady Stanton, was not willing to submit to this advancement of rights for one group that she supported for years as an abolitionist and not receive her own rights in turn. In fact, after ratification of the Fifteenth Amendment only granting suffrage to African American men, Anthony and Stanton created their own organization of those who opposed the exclusion of women from the Fifteenth Amendment called the National Woman Suffrage Association (NWSA).³⁶ However, not all of members of the women's rights movement agreed with opposing the amendment altogether because women were denied suffrage. Another side of the movement more resembled the beliefs of Justice Chase. Though disappointed with the limitation of suffrage in the Fifteenth Amendment to only African Americans, this side of the suffrage movement saw the advancement of one group as a stepping-stone for the eventual advancement of their own rights. They believed their cooperation with the men in Congress would eventually lead to their reward in what they sought.

While it can be easy to label the split in the Women's Rights Movement as creating two evenly divided sides, it was more of a spectrum with many women falling in between the two sides. In her article "'Horror of a Woman': Myra Bradwell, the 14th Amendment, and the Gendered Origins of Sociological Jurisprudence," Gwen Hoerr Jordan creates an intriguing description of Myra Bradwell as a neutral character in the Women's Rights Movement split, a neutrality that was not visible from the tension in Anthony's letter to Bradwell after her Supreme Court case. Jordan states that "Bradwell was not part of that divide, but rather represented a third faction of the women's rights movement that pursued a comprehensive strategy of securing women's legal equality through affirmative rights claims."³⁷ Instead of defining herself on one

³⁶ Gwen Hoerr Jordan, "'Horror of a Woman': Myra Bradwell, the 14th Amendment, and the Gendered Origins of Sociological Jurisprudence." *Arkno Law Review* 42, no. 4 (2009), 1212.

³⁷ *Ibid.*, 1205.

side of the movement, Bradwell held her goal to establish a world for women that was defined by a “democratic vision.” Even in her appeal to the Supreme Court, although she did not contend that the right to vote was granted by the Fourteenth Amendment, she argued that did not mean was no legal accessibility to suffrage through other rights and privileges. So, while her neutrality in her activism and in her case frustrated Anthony, Bradwell saw this neutrality as a path to securing rights that would eventually end with equality.

As Jordan asserts in her article, Myra Bradwell’s neutral stance was a political tool. This paper goes even further to state that her neutral stance exemplifies Bradwell’s understanding and manipulation of the Cult of True Womanhood. Whereas Susan B. Anthony boldly broke away from the societal expectations for women within her activism, Bradwell used these virtues to her advantage. To appear neutral was to be a “true woman,” following the virtue of submissiveness. Indeed, the effectiveness of her neutral stance is conveyed through an article from *The Milwaukee Sentinel* that covered Matthew Carpenter’s arguments in *Bradwell v. Illinois*. The article supports Bradwell’s position in the women’s rights movement that saw the progression of rights for African Americans as a win for women as well. The article further highlights the benefits of allowing women to enter professions once limited to men with the statement “there are many causes in which the telling sympathy and the silver voice of woman will accomplish more than the severity and sternness of a man will achieve.”³⁸ This quote demonstrates the effectiveness of Bradwell’s appearance as a “true woman” and the argument that the fundamental differences between women and men could be mingled to better society. Instead of

³⁸ “Woman’s Rights: Shall Women be Admitted to the Bar - Argument of Senator Carpenter in the case of Myra Bradwell v. The State of Illinois.” *The Milwaukee Sentinel*, Jan. 25, 1872. Iss. 20.

limiting the virtues of the Cult of True Womanhood to a separate sphere, these people saw that those virtues could be brought to the man's world and improve society.

By not defining herself to one side or cause, she was more appealing to the men in power who would be more willing to listen to her than to Susan B. Anthony, who did hold herself to a definable gender sphere. In her path of neutrality, Bradwell was hardly ever defined like Anthony was by Justice Chase for seeking "change a little too fast." Bradwell's non-binary stance as a "true woman" as well as an activist appealed to many women, which can be seen in a letter written by a housewife and published in the *Chicago Legal News*. In this letter originally printed in the *Chicago Tribune*, a concerned housewife referred to as Mrs. Sam Jones expressed her confusion over a law that Mr. James Bradwell, husband of Myra Bradwell, introduced to the Illinois state legislature. As Mrs. Sam Jones saw the law, the statute would allow married women to sue and be sued as if they were single women, or *feme soles*. Mrs. Jones represents the disconnect between the political and legal world to the domestic sphere of American life. In her letter, Mrs. Jones used simplistic language that indicates her limited education and lack of understanding towards the implications of the law. However, Mrs. Jones remarked that her lack of understanding came from the intentional vague and unclear legal rhetoric used in such laws. In fact, Mrs. Sam Jones explained her own husband's court dealings in which lack of clarity in law required multiple legal perspectives. Though seemingly lacking in educational background, Mrs. Jones noted the real serious issue of vague laws that prevent the statutes from reaching the full implementation level to constituents.

While this letter demonstrates the disconnect between laws and those they are intended to protect, the letter also demonstrates the public support of a variety of women's issues. For example, Mrs. Jones remarked that the confusing language of the law could be resolved when

women “could vote and change” the language of such laws.³⁹ She even went so far as to show her frustration with James Bradwell’s unwillingness to call the statute a women’s rights law. James Bradwell’s political tactic to appear more moderate by not indicating that the law was for women’s rights caused frustration in the female population, who wished to know how the law applied to them. The *Chicago Legal News* printed the letter immediately following the Illinois State Supreme Court’s decision to allow married women to be held for torts. Publication of the letter indicates the paper’s intention to exemplify the real world implications of the court’s decision. Most importantly, it exemplifies a housewife who wished to aid her husband through gaining her own rights, which is similar to Myra Bradwell’s own position.

Another set of sources that demonstrate how effective and long lasting Myra Bradwell’s presentation as a “true woman” is the series of eulogies that were printed in newspapers after her death. The Illinois State Bar Association, the very entity that Bradwell was initially denied entrance into in 1869, delivered a memorial for Myra Bradwell at an annual meeting. The memorial speech covers Bradwell’s attempt to enter the Bar and her life devotion to reform as well as her family. While upholding her extremely remarkable capabilities and accomplishments, the speech contains several references to her confirmation of the Cult of True Womanhood. The speechwriter describes Bradwell as “a gentle and noiseless woman, whose tenderness and refinement made the firmness of her character all the more effective.”⁴⁰ This quote captures a central theme of Myra Bradwell playing upon the qualities expected of women, the virtues of the Cult of True Womanhood, to achieve her reform. These adjectives, like “gentle” and “tenderness,” are strongly associated with feminine qualities, demonstrating how Myra Bradwell

³⁹ “Mrs. Sam Jones from the *Chicago Tribune*, March 3rd, 1873,” *Chicago Legal News*, March 22, 1873.

⁴⁰ “Illinois State Bar Association. Annual Meeting at Springfield, January 24, 1895. Memorial of Myra Bradwell.” *Chicago Legal News*, January 26, 1895, pg. 183.

played upon her womanly characteristics to manipulate the gendered world of American society in which she lived. It also exemplifies the speechwriter's indoctrination into the Cult of True Womanhood, which could indicate affection for her since she adopted more womanly qualities rather than presenting herself as an outspoken woman.

This theme of praise for her reform efforts through conformation to societal expectations can also be found in another memorial piece for Myra Bradwell published in the *Chicago Legal News*. Justice Henry W. Blodgett memorialized Myra Bradwell in a piece that was published in the *Chicago Legal News* after her death in 1894. In the memorial column, Blodgett refers to accomplishments within the Illinois court and political system, with special reference to her case on her right to practice law that was heard by the Supreme Court in 1869. However, what earns Bradwell the highest praise from the Justice is her devotion to the virtues of the Cult of True Womanhood. The Justice praises Bradwell for not becoming "a mannish ogre, who is in most people's minds associated with the woman who strays out of her 'sphere,' as it is called, but a woman imbued with all the sweet and gentle sympathies which characterize the best of her sex."⁴¹ The Judge's eulogy captures how Bradwell was admired for advocating for women's rights while still conforming to rigid gender roles. The memorial praises Bradwell for entering a professional world by using the qualities of her private gender sphere to enable her progress. The memorial goes on to say that Bradwell's life demonstrates that women "need not, and does not necessarily unsex herself when she takes up some, at least, of the avocations which men have heretofore claimed as peculiarly their own." To this judge, it was acceptable for women to infiltrate a profession normally reserved to men as long as they still upheld the virtues of the Cult of True Womanhood.

⁴¹ "Myra Bradwell." *Chicago Legal News*, January 19, 1895.

Conclusion

The time in which Myra Bradwell lived and appealed her case to the United States Supreme Court was marked with rigid gender expectations. The Cult of True Womanhood had substantial influence over Myra Bradwell's career as well as those who observed her life. Yet during the women's rights movement and *Bradwell v. Illinois*, many women challenged these expectations in multiple ways. As seen with Susan B. Anthony and Myra Bradwell, some women directly challenged the virtues of the Cult of True Womanhood through open defiance while others conformed to those virtues in order to gain the acceptance of those they were attempting to lobby. Myra Bradwell utilized the virtues of a "true woman" to justify her push for women's rights and the entrance of women into exclusively male professions. The Cult of True Womanhood defined Myra Bradwell's career in the Woman's Rights Movement but how did it define the case of *Bradwell v. Illinois*?

Chapter 2: How the “Constitution of the Family” Infiltrated *Bradwell v. Illinois*

In 1872, the Illinois State Legislator met to discuss a law concerning employment rights. One can imagine Myra Bradwell waiting anxiously outside of the legislator chambers as the men discussed the bill. Today was the day that her efforts would come to fruition. All of her lobbying, reading over case law and speaking with countless officials were hopefully about to pay off. However, she was powerless for the moment. Her fate, the fate of women’s rights, rested in the hands of the men who were meeting right beyond the door that Myra Bradwell sat next to. Was she thinking about her own case that she had presented to the Supreme Court a year prior? No. In fact, the Supreme Court was the last thing on her mind right now. All Myra Bradwell would have cared about in that current moment was the men who composed the Illinois State Legislature who were in session just behind the door. Let the dice fall where they may, Myra might have thought to herself. She had done all she could with Carpenter to appeal to the Supreme Court; she would hear that news sometime later. At that moment, her attention would have been focused on this monumental legislation before her.

Her husband, James Bradwell, walked out of the legislative chambers and made his way to his wife. Myra could have sat inside the chambers and listened with him, but she was far too anxious to subject herself to the tedious practices of the legislature. Myra looked eagerly at James’s face, trying to read for any emotional signs of celebration or failure. Finally, James offered a satisfied grin and he nodded his head in affirmation. He did not need to say anything

else. Myra sighed in relief and tried her best to calmly get up from her seat and gently embraced her husband. She was never one for loud and boisterous celebration but even in this moment it was difficult to contain herself. Her hard work had finally paid off. Her bill was now law. The Illinois State Legislature adopted her bill that stated “all persons [have] freedom in the selection of any occupation, profession, or employment...without regard to sex.” With this bill, Myra Bradwell took one step closer to ensuring the employment rights of women in Illinois and set the stage for further advancement of women’s rights across the country. Content with her victory of her home state, Myra Bradwell let herself forget any worry about the United States Supreme Court and her case before that body.⁴²

Introduction

The goal of this chapter is to provide several different aspects that illuminate the essential judicial understanding of *Bradwell v. Illinois*. First, the chapter provides a general timeline of Myra Bradwell’s process through the Illinois State and United States Supreme Court with description of what statutes or ideals she, and later her lawyer, used to shape their arguments presented to the courts. Analysis of the outcome of the United States Supreme Court’s opinion follows historical background on the Fourteenth Amendment and that legislation’s effect on the *Bradwell* case as well as the important *Slaughterhouse Cases*. After this essential legal background analysis of the Court’s two opinions, a subsequent analysis applying the social history of the Cult of True Womanhood to the justices’ opinions adds further context to Bradwell’s efforts. Finally, after examining how the social gender norms of the time affected the

⁴²When studying *Bradwell v. Illinois*, many historians have questioned if Myra Bradwell was prepared to lose her appeal. Historian Jane Friedman claims that Bradwell was a believer in the power of courts, but waged political war on all branches of government. Friedman cites Bradwell’s successful lobbying of the Illinois legislature for equal protection in employment as an example of her wide reaching tactics to secure some rights for women. Friedman, *America’s First Woman Lawyer*, 135.

Court, an examination of the political tactics used by Myra Bradwell and others to combat this traditional ideal stronghold over the Court explains the significance of this Supreme Court fight.

Presenting to the Courts

After passing the Illinois Bar Exam in 1870 with high honors, Myra Bradwell's next steps illustrate a woman who was prepared to wage intellectual war on the judicial system she wished to enter. At the time, after one passed the Bar, candidates had to present themselves to the Court and petition for themselves to practice law. The final decision was in the hands of the State Supreme Court. In her first petition to the Illinois State Supreme Court, Myra Bradwell brought forth all the proper documents and qualifications for her acceptance to the Illinois Bar.⁴³ Obtaining a circuit judge and state's attorney's attestment to her successful bar examination as well as an inferior court attesting to her good moral character, Bradwell's petition contained all the documents necessary by Illinois law to receive a license to practice law. However, anticipating the potential denial based on her gender, Bradwell referred to the state's legislative history to confirm her right to receive a license to practice to law. This document demonstrates Bradwell's extensive preparation beyond the requirements set by the state's law to meet the additional obstacles placed by societal rule on gender roles.

First, Bradwell referred to the first section of chapter eleven of the Revised Statutes of Illinois Law, which discusses the admission of attorneys and contains the usage of the masculine pronoun "he." Bradwell claims that the use of the pronoun does not prove that the legislature meant to exclude women, due to another legislative act in the Revised Statutes that ruled both male and female genders should be assumed in any statute that exclusively uses the male

⁴³ "Petition for License to Practice Law," written and signed by Myra Bradwell, filed 21 September 1869, case file 28653, RS 900.001, Illinois State Archives.

pronoun. Bradwell then referred to the Declaration of Independence to further prove her point that the nation's history of legislation did not mean to exclude women from the rights provided simply because of a pronoun. She pointed out that the founding document uses the pronoun "he" almost exclusively, but no legislative body will deny the rights like trial by jury or safety from enslavement from a woman due to this restrictive rhetoric. Bradwell's initial petition demonstrates her expectation to be met with additional criticism and obstacles based on her gender through the court system.

Bradwell's prediction was completely accurate. The letter from Norman L. Freeman to Myra Bradwell contains the details of the Illinois State Supreme Court's initial denial of her petition to practice law.⁴⁴ Freeman was placed in charge of filing her petition to receive her license to practice law from the Illinois State Supreme Court. Rather than addressing a letter to Bradwell herself, the Court addressed Freeman to relay the ruling to his client. The Court denied her license to practice to law due to the disabilities imposed on her by her condition of being a married woman. The Court acknowledged that this was an assumption of her condition, for Bradwell did not state in her petition that she was married, but still based its ruling on the assumption. In elaboration, the Court notes that, as a married woman, Bradwell would not be able to maintain the necessary obligations between a lawyer and client. The state court defined its ruling with the statute of coverture, a legal condition where married women's legal identity is assumed by her husband under marriage. Under coverture, the Court found that Bradwell could not practice law because she would not be legally able to maintain contracts of service for her clients. Referencing the common law practice of coverture clearly shows how institutions that matched the ideals of the Cult of True Womanhood shaped the Illinois State Supreme Court.

⁴⁴ "Norman L. Freeman to Myra Bradwell, 6 October 1869," *Chicago Legal News*, February 5, 1870.

Myra Bradwell was prepared for this response from the State Supreme Court and fired back with an even more detailed argument. In her second brief, she expanded on several matters ranging from legal and legislative precedent in order to prove her claim that the laws of Illinois do not make the condition of being a married woman a crime or a disqualification to practice law, nor any other profession.⁴⁵ Bradwell supported her argument on six different aspects that prove married women are not disqualified under Illinois statutes. The six aspects are as follows: the definition of attorney, who may act as an attorney, the rights and powers of married women in relation to their business and property under common law, their transacting business in their names and acting as attorneys under recent statutes, the opened professions to women by lawmakers, and finally how the legislature regarded Bradwell as able to carry on her own business legally under her name.

The six aspects that Bradwell laid out develop off of one another. Bradwell noted that the courts in Illinois in previous cases had dismissed some limitations of common law to grant women more liberties. She devoted most of her brief to how recent statutes from the state legislature expanded upon women's rights in terms of property. Importantly, she noted that other states like Wisconsin had chipped away at common law limitations to the point of granting a woman the right to practice law. While she used this fact as a means of precedent to support her case, she also pointed out the potential political backlash if the Court refused to grant her the right to practice law. "You, in my judgment, in striking me down, strike a blow at the rights of every married woman in the great State of Illinois who is dependent on her labor for support," she wrote, "and say to her, you cannot enter into the smallest contract in relation to your earnings

⁴⁵ "Additional Brief, 18 November 1869," Printed document, case file 26853, RS 900.001, Illinois State Archives.

or separate property, that can be enforced against you in a court of law.” By aligning herself with the past expansion of rights for women, Bradwell presented her case as a continuation of judicial and legislative precedent. Finally, she used her previous legal victory in achieving sole claim over her business, *Chicago Legal News*, to demonstrate her ability to participate in business contracts, even as a *feme covert*. Bradwell’s additional brief not only demonstrates her persistence to challenge the Court’s denial of her rights, but also shows her extensive legal knowledge through the exploitation of political tactics.

Expanding her battle to different fronts, Myra Bradwell appealed her case to the United States Supreme Court before even receiving a response to her second brief from the Illinois State Supreme Court. In her initial brief to the United States Supreme Court to hear her case, Bradwell noted the characteristics of her situation that mandated the protection of the Fourteenth Amendment.⁴⁶ While still maintaining that the state had the responsibility to grant her the license to practice law, she stated that the federal government had the responsibility to mandate the state to do so. Citing the Fourteenth Amendment as well as the Civil Rights bill, Bradwell held that her right to exercise law was protected by these federal provisions. Bradwell also stated that denying her the right to practice law due to her married condition violated the provisions of equal protection from the Fourteenth Amendment as well as the Civil Rights bill. The Civil Rights Bill of 1866 was the first federal legislation that defined citizenship to include any naturalized citizen, regardless of race or previous condition. Thus, even though Myra Bradwell differed from Susan B. Anthony in terms of supporting the Fifteenth Amendment for African American rights, Bradwell still used the expansion of African American rights as an argument for expansion of rights for women.

⁴⁶ “Additional Brief [31 December 1869],” printed document, case file 26853, RS 900.001, Illinois State Archives.

After appealing her case to the highest court in the country, Bradwell received a final unanimous ruling and opinion from the Illinois State Supreme Court. The Illinois State Supreme Court's second opinion is much more extensive than the Court's initial response to her petition.⁴⁷ The Court confirmed that it is only the power of the legislature to mobilize social reform, encouraging Bradwell and others who may follow her lead to take matters of social reform to the legislature. However, the Court went on to refute Bradwell's extensive claim that precedent had set the stage for women to practice law. The Court maintained that it would adhere to common law practice until the legislature rules otherwise, such as with cases of property and wages where common law was overturned for specific reasons. The Court also said that shifts from common law do not indicate an entirely different legal standing for women. Furthermore, the Court maintained that the legislature does not explicitly grant women the right to practice law, and thus as a judicial body, the Court felt no responsibility to make this claim.

While the Illinois State Supreme Court spent extensive time explaining the legal statutes that bar women from practicing law, the Court also pointed to the social barriers that kept women outside of the courtroom. Though the Court stated that it would not be opposed to the legislature eventually allowing women to practice law, the Court claimed that women could first enter the legal profession in jobs that fit the capabilities of their labor and gender. In other words, the Court would find it acceptable for women to enter the legal profession first as secretaries rather than lawyers. By referring to the authority of "God [who] designed the sexes to occupy different spheres of action and that it belong to men to make, apply, and execute the laws," the Illinois State Supreme Court confirmed the deep reaching roots of the Cult of True Womanhood

⁴⁷ "Opinion, 28 January 1870," written by Charles B. Lawrence, case file 26853, RS 900.001, Illinois State Archives.

on the American court system. This religious authority to keep women out of the public sphere in positions of power was a common thread in the nineteenth century legal system of America, as seen with the final ruling of *Bradwell v. Illinois*.

Using the Fourteenth Amendment

While the Illinois State Supreme Court was issuing their opinion on Bradwell's extensive arguments on cutting some of the bigger limitations of common law, she was busy preparing a far different argument to the United States Supreme Court. In her appeal to the United States Supreme Court, Bradwell insisted that it was the federal government's duty to ensure her right to practice law because the discrimination against her violated the Civil Rights Bill of 1866 and the Privileges and Immunities clause of the Fourteenth Amendment. Not only is it notable that Myra Bradwell challenged the courts by referencing newly passed legislation with which there was little precedent for judges to rely upon, but the fact that a white woman was claiming rights through these specific laws is even more significant. In fact, in reference to the Civil Rights Bill, Bradwell claimed "it is contrary to the true intent...of said 'Civil Rights Bill,' for your petitioner to be refused a license to practice law, upon the sole ground of her 'married condition.'"⁴⁸ To equate the discrimination of gender to the discrimination of race was a common characteristic of the women's rights movement and a powerful tool with the abolition of slavery. As historian Nancy Gilliam notes in her article "A Professional Pioneer: Myra Bradwell's Fight to Practice Law," Bradwell's argument with the Civil Rights Bill was also risky considering that the Courts, at both state and federal levels, were explicitly aware that the intention of the legislation was to

⁴⁸ "Additional Brief [31 December 1869]," printed document, case file 26853, RS 900.001, Illinois State Archives.

protect African American men from state discrimination, not a white woman's right to employment.⁴⁹

So while Bradwell faced the issue of intention and application to a certain group of people with the Civil Rights Bill of 1866, she faced an even more unique challenge with her argument concerning the Fourteenth Amendment. Passed by Congress in 1868, the amendment was one of the three pieces of legislation known as the Civil War Amendments. One of the lengthier of the Civil War Amendments, the Fourteenth Amendment is broken into four different sections. Though the second section is significant just for the fact that it is the first amendment to the Constitution to contain the word "male," the first section contains major protections for citizens from state discrimination. The first section of the amendment states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States*; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.⁵⁰

Myra Bradwell's initial brief to the United States Supreme Court hinged on this Privileges and Immunities Clause. In her argument, Bradwell stated that as a citizen of Illinois, she had the right to the "protection of the [federal] Government, the right to the enjoyment of life and liberty, to acquire and possess property, to reside in the State, to carry on trade, *and the right to follow any professional pursuit under the laws of the State.*"⁵¹ In her brief, Myra Bradwell took the liberty to define the right to pursue a form of employment as a one of the privileges and immunities protected by the Fourteenth Amendment. However, since specific privileges and

⁴⁹ Nancy T. Gilliam, "A Professional Pioneer: Myra Bradwell's Fight to Practice Law," *Law and History Review* 5, no. 1 (1987): 114.

⁵⁰ U.S. Const. amend. XIV.

⁵¹ "Additional Brief [31 December 1869]," Printed document, case file 26853, RS 900.001, Illinois State Archives.

immunities were not listed along with the amendment, it was the responsibility of the United States Supreme Court to interpret what could be considered privileges and immunities. With such a delicate state of politics in a post-Civil War America, interpreting amendments like the Fourteenth Amendment was tricky business. Since the Civil War amendments were acts of legislation that allowed the federal government to check states in terms of discrimination, the prudent question was “would the Fourteenth Amendment bring about a radical change in the balance of power between state and federal governments?”⁵² Essentially, cases like *Bradwell v. Illinois* forced the United States Supreme Court to decide whether they would take an expansive interpretation of the Fourteenth Amendment that would pose more federal authority over the states or if they would limit the amendment to the protection of African Americans. Perhaps the deciding factor in the Supreme Court’s decision was due to another case that was on the docket at the same time as *Bradwell v. Illinois*.

The Slaughterhouse Cases

Myra Bradwell was not the only one who saw the Fourteenth Amendment as an opportunity to secure employment rights against state regulations. The month before Myra Bradwell’s case was docketed, the United States Supreme Court received a series of cases that came to be known as *The Slaughterhouse Cases* (1873). In these cases, a group of butchers from Louisiana made a very similar argument to that of Myra Bradwell’s Fourteenth Amendment Privileges and Immunities Clause protecting the right to employment. In 1869, the Louisiana Legislature passed a bill that forced all butchers within a certain radius of New Orleans to butcher their livestock in a state monopolist slaughterhouse for a fee. Though the bill was passed to increase health standards within the meat industry, the butchers took the monopoly and some

⁵² Gilliam, “A Professional Pioneer,” 117.

state legislators all the way to the United States Supreme Court due to what they saw as a violation of their employment rights. After stripping away the different circumstances that defined the cases of *Bradwell v. Illinois* and *The Slaughterhouse Cases*, the basic question remains the same: does the freedom to pursue an occupation of employment constitute a privilege and immunity that would warrant the federal protection of the Fourteenth Amendment?⁵³

Because of the similar timeline of the two cases in the United States Supreme Court and their similar challenges based on the newly ratified Fourteenth Amendment, historians have questioned what effects the two cases may have had on the outcome of the Court's decision. Nancy Gilliam noted "the movement of both cases on the Court's docket suggests that the Justices considered the *Bradwell* implications while they were reaching their decisions on the butchers' claim." Therefore, it could be reasonably assumed that perhaps the justices of the court realized that, if they adopted a broad interpretation of the Fourteenth Amendment, then they would also have to adopt the same expansion of protection for Myra Bradwell. Historian Joan Hoff Wilson agrees with this speculation, stating that the decision in *Slaughterhouse* was "influenced by the Court's realization that a broad interpretation would necessarily change the status of women."⁵⁴ In his article "Women against the Law: Myra Bradwell's Struggle for Admission to the Illinois Bar," Robert Spector supports this claim and further notes that Bradwell's lawyer, Matthew Carpenter, was also the defense lawyer for Louisiana in *The Slaughterhouse Cases*, essentially supporting two vastly opposing arguments.⁵⁵ Whether the

⁵³ Ibid., 118.

⁵⁴ Joan H. Wilson, "The Legal Status of Women in the Late Nineteenth and Early Twentieth Centuries." *Human Rights* 6, no.2 (1977): 129.

⁵⁵ Robert M. Spector, "Women against the Law: Myra Bradwell's Struggle for Admission to the Illinois Bar," *Journal of the Illinois State Historical Society* 68, no. 3 (1975): 234.

outcome of *The Slaughterhouse Cases* affected the decision of Myra Bradwell's case, the possibility of the expansion of rights for women affected the butchers' case, or even a poor coincidence of divided legal defense sealed the defeat of the two cases; the fates of *Bradwell v. Illinois* and *The Slaughterhouse Cases* were forever connected.

The Ruling of the Two Cases

The United States Supreme Court released its opinion concerning *The Slaughterhouse Cases* on April 14th, 1873, making it the first case from the Court to make any sort of official ruling concerning the newly ratified Fourteenth Amendment. The Court concluded that the Louisiana State Legislator law that required the butchers to go through a monopolist slaughterhouse was not a violation of the privileges and immunities clause of the Fourteenth Amendment. First, the written opinion, composed by Justice Samuel Freeman Miller, states that within the Fourteenth Amendment and the other Civil War amendments "no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race."⁵⁶ The Court was not willing to expand an application of legislation that was recent and clearly intended to serve one group of people. Furthermore, the Court found that the right to carry out an occupation without going through a state mandated monopoly was not one of the privileges and immunities protected by the Federal government.

This ruling was strongly contested within the United States Supreme Court, with just a narrow victory for the Louisiana legislature and a restrictive interpretation of the Fourteenth Amendment by just a five to four vote. Justice Joseph Bradley, Salmon Chase, Noah Haynes Swayne, and Stephen Field all dissented from the majority opinion. When examining Justice

⁵⁶ *The Slaughterhouse Cases*, 83 U.S. 36 (1873).

Bradley's dissenting opinion for *The Slaughterhouse Cases*, there is a clear expression of judicial reasoning to expand the perimeters of the Fourteenth Amendment. Justice Bradley states in his opinion, "there is no more sacred right of citizenship than the right to pursue a unmolested lawful employment in a lawful manner."⁵⁷ Bradley had been a well-known supporter of the expansion application of legislation from the Civil Rights amendment. In fact, in a section of the *Chicago Legal News* titled "The XIV Amendment and Our Case," three years before the *Slaughterhouse Cases* or *Bradwell v. Illinois*, Myra Bradwell praised Justice Bradley for stating that the Civil Rights Act of 1866 was not meant exclusively for the protection of African Americans and should be expanded to protect the occupations of all American citizens. She further predicted that Justice Bradley and his fellow dissenting judges would keep this mindset for her own case.⁵⁸

She was proven wrong, however. In the *Bradwell v. Illinois* opinion, released one day after *The Slaughterhouse Cases*, making it the second case ruling on the Fourteenth Amendment, the United States Supreme Court had a far less internal conflict over the decision to limit the Fourteenth Amendment for the employment opportunities of a woman. The Court stated that "the right to control and regulate the granting of license to practice law in the courts of a State is one of those powers which are not transferred for its protection to the Federal government."⁵⁹ Justice Miller again delivered the majority opinion of the Court, but this time it was an eight to one decision. Justice Bradley, Swayne, and Field all flipped their expansion view of the amendment for Myra Bradwell. The answer of why can be found in Justice Bradley's concurring opinion.

⁵⁷ Ibid.

⁵⁸ "The XIVth Amendment and the Civil Rights Bill," *Chicago Legal News*, October 15, 1870.

⁵⁹ *Bradwell v. Illinois*, 83 U.S. 130 (1873).

Justice Joseph Bradley's Concurrence

Though Justice Bradley agreed with the final decision of the Court to affirm the Illinois State Supreme Court's denial of a law license for Myra Bradwell, he wrote a concurring opinion in which he elaborated on the societal laws that confirmed the decision. Justices Swayne and Field both sided with Justice Bradley's opinion. To begin his opinion, Justice Bradley stated that the Illinois State Supreme Court denied Bradwell her right to practice law because she was a married woman. Justice Bradley disagreed with this reasoning. He stated that any woman, married or not, should not practice law because "nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman." Referring to this natural law, Bradley claimed that certain duties of civil roles are not meant for the "natural and proper timidity and delicacy which belongs to the female sex." To reinforce all of his claims, Bradley did not refer to the Constitution of the United States, but rather what he called the "Constitution of the family."⁶⁰ In a way, by calling on the divine authority of the Creator who decreed a separation of the sexes, Justice Bradley's concurring opinion in *Bradwell v. Illinois* carried more weight in American society than his dissenting opinion in *The Slaughterhouse Cases*, which is based on the unstable opinion of man. The Cult of True Womanhood established more precedent in American society than the idea of federal government interfering with state matters.

Historian Robert Spector explains that inconsistent rulings between *Slaughterhouse* and *Bradwell* is due to the fact that "in Mrs. Bradwell's case, those three dissenters, no matter how strong their language in the *Slaughterhouse Cases*, were speaking only about men."⁶¹ Myra Bradwell was quick to point out this inconsistency in the two rulings for those judges. In an editorial from the *Chicago Legal News*, Bradwell even praised Justice Miller's majority opinion

⁶⁰ *Bradwell v. Illinois*, 83 U.S. 130 (1873).

⁶¹ Spector, "Women against the Law," 237.

due its confinement “strictly to the points at issue...he does not for a moment lower the dignity of the judge by traveling out of the record to give his individual views upon what we commonly term ‘women’s rights.’” When discussing Justice Bradley’s concurring opinion, she called out his change in ideology between the two cases: “How can he deprive an American citizen of the right to follow any calling or profession [if] simply such citizen is a woman?”⁶²

In her sharp criticism of Justice Bradley’s inconsistent rulings, Myra Bradwell exemplifies an important characteristic of American courts in a post-Civil War society. It is not that the courts were unwilling to rule on a social issue like women’s rights; it is that they were unwilling to break the bounds of the traditional ideology that defined their branch of government. In some cases, the “Constitution of the family” and the Cult of True Womanhood were what defined a judge’s decision rather than any text from the Constitution of the United States. Even if the case seemed to grant some expansion of rights for women, the motivation was truly based on a traditional ideology driving the Cult of True Womanhood or the “Constitution of the Family.” The Illinois State Supreme Court case *Margaret Martin and John Martin v. Janet Robson* (1873) exemplifies this. The column “Supreme Court of Illinois” from the *Chicago Legal News* discusses this Illinois Supreme Court case dealing with the question of whether a husband can be legally held for torts of his wife under the common law practices of coverture under Illinois statute. Torts refers to the act of a civil wrong that passes loss or harm on another that would make the one who committed the crime liable for damages. As historian G.S. Rowe notes in his article “Femes Covert and Criminal Prosecution in Eighteenth-Century Pennsylvania,” theoretically, since married women had no legal identity, their husbands should

⁶² Friedman, *America’s First Woman Lawyer*, 26-27.

be liable for any torts held against them.⁶³ However, the Illinois State Supreme Court majority opinion, written by Justice Anthony Thornton, found that husbands can no longer be held liable for their wives torts due to the state's cut back of coverture application. Referring to two statutes from 1861 and 1869 where the Illinois State Legislature restricted coverture practices to allow married women to control separate properties and keep separate incomes from their husbands, the state court found that these rights meant that married women should alone be held liable for torts. Though the final decision would indicate that the Illinois Supreme Court embraced an expansion of women's legal identity, a deeper look into the Court's opinion exemplifies its commitment to restrictive gender relations. The Court was no longer able to rely on the restrictive nature of common law coverture due to advances from the legislature, but it could rely on the contract of marriage to ensure a traditional role for women.

The two statutes from 1861 and 1869 that the Court referred to in the decision are the same statutes that Myra Bradwell referred to in her second petition to the state court three years prior for a license to practice law. These are also the same statutes that Bradwell herself advocated for in the Illinois Legislature. Interestingly, while the Court recognized that the legislature's intention was to give women certain liberties like separate income, property, and labor, the Court also claimed a judicial responsibility to safeguard against a radical construction of statute that could destroy the functionality of marriage. The Court agreed that ancient statutes of common law had been overturned but it still argued that the contract of marriage required submission. So, while common law practices that legally bind husband and wife as one no longer applied, the Court still enforced a legal submission through the contract of marriage. In this case,

⁶³ G. S. Rowe, "Femes Covert and Criminal Prosecution in Eighteenth-Century Pennsylvania," *The American Journal of Legal History*, Vol. 32, No. 2 (Apr., 1988), 139.

a matter of women held liable for criminal charges, the Illinois Supreme Court was overtly willing to expand on initiation beyond the legislature, a step they were not willing to take with Myra Bradwell.⁶⁴

Working Around the Court and Utilizing the Cult

While Justice Bradley's concurring opinion represents a trend in the American legal system to only interpret the social intentions in cases that threaten traditional norms, his opinion also demonstrates the differing ways that he and Myra Bradwell saw the societal implications of the Cult of True Womanhood. In his *Bradwell* opinion, Justice Bradley was clear that the delicate nature of women, or the virtues of a true woman, denied her a position in a civic life and confirmed her a housewife. Myra Bradwell and others who agreed with her in the women's rights movement, saw these characteristics of women defining them as the perfect actors in civil work. So interestingly, these two vastly divided people both believed in the same Law of the Creator that made women different, but they disagreed in the purpose of this division. With *Bradwell v. Illinois*, it was the interpretation of the Cult of True Womanhood that triumphed over Myra Bradwell. However, was Justice Bradley's opinion the clear victor in the end? Examining the other achievements of Myra Bradwell and her supporters in the women's right movement reveals how their utilization of the Cult of True Womanhood actually led to significant victories.

While it impossible to truly determine whether Myra Bradwell thought she would win her United States Supreme Court case and what her end goal was, one can see specific themes and strategies that demonstrate this case as a political attack to secure women's rights in the long-run. First, in her lawyer Matthew Carpenter's appeal to United States Supreme Court and to the

⁶⁴ *Chicago Legal News*, "Supreme Court of Illinois. Opinion Filed March 7, 1873. *Margaret Martin and John Martin v. Janet Robson*," March 22, 1873.

dismay of Susan B. Anthony, she does not assert for the right of women's suffrage. In fact, Carpenter himself even acknowledged that his "pains to distinguish between 'privileges and immunities' of a citizen, and the 'right' of a citizen to vote," were in order "to quiet the fears of the timid and conservative."⁶⁵ Even more so, in one section from the *Chicago Legal News*, Bradwell stated that her legal team's argument was that women "have *some* privileges and immunities." By creating a politically moderate image on her case, Bradwell was attempting to appeal to a wider audience with slow gains in rights. But perhaps what is even more notable is her attention and celebration to the victories in other sectors of the women's rights movement. In this same article of the *Chicago Legal News* where she explains her case, she also takes the time to celebrate the victories of other women in states where they could finally sit on juries.⁶⁶ Thus, Myra Bradwell's energies were not just limited to her own personal victories. This is best exemplified through her lobbying for an Illinois statute that banned discrimination in employment based on sex. Author Jane Friedman notes that Bradwell was working on that bill as her United States Supreme Court was on the docket.⁶⁷ Bradwell knew the slowness of the courts and sought to initiate change on all fronts.

Therefore, even though Myra Bradwell lost the battle of *Bradwell v. Illinois*, she did not lose her war in the women's rights movement. The mere attention to her judicial challenge did not go unnoticed. The article "Notes and News" from *The Women's Journal* offers an essential demonstration of the ramifications that *Bradwell v. Illinois* had on the women's rights movement. Just like the memorial for Bradwell from the Illinois Bar Association described, this

⁶⁵ Argument for Plaintiff in Error, 10 January 1872, Supreme Court of the United States, December Term, A.D. 1871 No. 67, Myra Bradwell vs. State of Illinois. Printed document, Library of the Supreme Court of the United States, Washington, D.C.

⁶⁶ Chicago Legal News, "The XIV Amendment and Our Case," April 19, 1873.

⁶⁷ Friedman, *America's First Woman Lawyer*, 134.

article captures how, even with defeat, the case served as a call for change in public attention and public opinion. The paper jumps on the case to serve as a rallying cry for how the case may be the turning point toward an end to patriarchal rule over American society.

The news article focuses on the subsequent law passed by the Illinois legislature after the State Supreme Court denied her appeal. While the paper celebrates the victory of a law that forbids gender discrimination in occupation, it also ridicules the actions of the legislature only after discrimination has occurred. In fact, the paper calls the law an indication that the Illinois State Legislature may come down from a place of privileged masculinity once and for all. This section exemplifies one response to Bradwell's case from a sector of the women's rights movement. While the paper ridicules the state legislature, the paper saves most of its critique for what it calls the "old fogies" of both state and federal courts.⁶⁸ This contempt for the justices of courts across America exemplifies how the women's rights movement saw the courts as a place of old tradition that worked against women's rights. Though the paper acknowledges that the courts are not a place of reform, it does acknowledge that the courts cannot stop reform totally, as exemplified with the law from the Illinois legislature. The paper's prediction was correct. In 1879, President Rutherford B. Hayes signed a bill that provided admission of women to the bar of the U.S. Supreme Courts on the same grounds as men. Upon the bill's passage, Myra Bradwell decreed: "The court which has said to woman, 'you cannot enter here,' must now open its door at her approach she comes armed with the proper documents."⁶⁹

Conclusion

When reviewing the many different aspects that defined the circumstances and the actors of *Bradwell v. Illinois*, it becomes clear that this case was more than just a woman trying to

⁶⁸ "Notes and News," *The Women's Journal*, April 1873.

⁶⁹ Friedman, *America's First Woman Lawyer*, 142-143.

practice law. This case defined the United States Supreme Court's interpretation of the Fourteenth Amendment and its ruling on the controversial subject of federal intervention in post-Civil War America. The case exemplifies how the American court system was not the vision of objective rule as written in the Constitution of the United States. The judges who composed the bench of the most powerful judicial body in the country were compromised by societal ideals that surrounded the cases before them. Furthermore, *Bradwell v. Illinois* demonstrates the extraordinary and calculated political tactics that Myra Bradwell took in each step of her judicial journey. Though unsuccessful in her personal case, Bradwell's actions in *Bradwell v. Illinois* defined the progress towards civil rights for all other American women. Her awareness and manipulation of the Cult of True Womanhood set forth a means for other women to secure liberties and freedoms.

A Woman's Work is Never Done

This thesis is an incomplete narrative on many fronts. When examining *Bradwell v. Illinois* and Myra Bradwell, there are many essential paths to be studied that have not been addressed within this space. For example, historian Richard Aynes researched the life of the lone judge to dissent in *Bradwell* and what possible motivations for this decision could have been, but this same research methodology has not been applied to the outspoken Justice Joseph Bradley in the case. Analysis of Justice Bradley's past decisions, or even decisions after *Bradwell*, could reveal further ideological themes that can be traced in American history. This Supreme Court case offers a unique cross section between the history of women's rights, Supreme Court decisions, and legal reform in American history. To study Myra Bradwell and *Bradwell v. Illinois* could provide countless scholarship opportunities in many different fields of history.

It is clear that Myra Bradwell was a remarkable woman of her time. She was a wife, a mother, and also an activist who took the politically safe route in her work. The reverence for her "womanly character" seen throughout many of her eulogies demonstrates that she was praised for performing the domestic duties of her gender. The virtues that composed the Cult of True Womanhood had a clear impact on her life and how people - including newspapers, activists, and judges - perceived her. Unlike her fellow activists like Susan B. Anthony who sought to break the mold of gender expectations for a woman, Bradwell conformed to these expectations in order to secure the support of larger and more moderate legislators, judges, and even everyday citizens. So the Cult of True Womanhood did not necessarily just affect Myra Bradwell; the cult provided Bradwell a powerful weapon to attack systematic gender discrimination. Bradwell turned the very ideals used to justify a separation in occupation between genders to instead validate the benefits of a woman's touch. Even within the split of the women's rights movement concerning

women's suffrage, Bradwell's tact and presentation as a "true woman" still earned her high praise from men of high positions, as seen in the various articles that covered her case and the eulogies of her life.

Thus, *Bradwell v. Illinois* represents this manifestation of Myra Bradwell's manipulation and utilization of gender expectations to achieve legal reform for women's rights. She waged a calculated political war on both the Illinois State and United States Supreme Court by attacking the faults in logic between women's rights and African American rights with the application of the Civil Rights Bill and the Fourteenth Amendment. Her comparison of gender discrimination to the discrimination of African Americans demonstrates her quiet cunning to achieve rights through the advancement of rights in another group. Though her strategy was not successful within the Supreme Court, the case still illuminates important aspects of the Supreme Court. With both the Supreme Court opinions of *The Slaughterhouse Cases* and *Bradwell*, one can see reluctance among the judges to expand federal power in a period of Reconstruction. However, *Bradwell v. Illinois* also exemplifies social ideals that influence what is the supposedly objective judicial body.

This thesis has demonstrated Myra Bradwell's weaponization of gender within her Supreme Court case. However, there is still much to discuss about Bradwell and the other works in her career. *Bradwell v. Illinois* was a challenge to the Supreme Court that set the stage for the fight for women's rights in terms of occupation. Yet, how did this Supreme Court case compare to her other activism work within the women's rights movement? Myra Bradwell took a uniquely neutral stance on the Fifteenth Amendment when the women's rights movement grappled over it. She neither aligned with the side that explicitly supported African American suffrage nor did she side with rigid opposition to the amendment. Did she take this neutral position in other matters?

What was her attack strategy for other women's rights goals? With more research into Myra Bradwell's long lasting career in the women's rights movement and other reforms she sought, these questions may be answered.

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